

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE	:	CHAPTER 13
	:	
CHESTER PAUL RAMAGOS AND	:	CASE NO. 17-69050-LRC
DANA LATRICE RAMAGOS,	:	
	:	
Debtors.	:	
	:	
	:	
CAPITAL ONE AUTO FINANCE, A	:	
DIVISION OF CAPITAL ONE, N.A.,	:	
	:	
Movant,	:	CONTESTED MATTER
	:	
v.	:	
	:	
CHESTER PAUL RAMAGOS AND	:	
DANA LATRICE RAMAGOS,	:	
Debtors;	:	
and MELISSA J. DAVEY, Trustee,	:	
	:	
Respondents.	:	

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

COMES NOW Capital One Auto Finance, a division of Capital One, N.A. (the "Movant"), a creditor of the referenced Debtors, and hereby moves this Court to deny confirmation of Debtors' Chapter 13 Plan. In support of its objection, the Movant shows the Court as follows:

1.

On November 1, 2017, Chester Paul Ramagos and Dana Latrice Ramagos ("Debtors") filed a Voluntary Petition pursuant to 11 U.S.C. Section 1301 et seq., and said case is presently pending before this Court.

2.

Movant has a net claim in this case in the amount of \$18,612.15 secured by a 2013 Chevrolet Malibu VIN 1G11B5SAXDF332590 (the "Collateral") titled in the name of Debtor

Chester Paul Ramagos and a nonfiling Codebtor Evelyn F. Hudson.

3.

This is Debtors' second Chapter 13 bankruptcy case. Debtors' first case, Case No. 14-63739-lrc, was filed July 16, 2014, and dismissed November 1, 2017, the very same day of the filing of the instant case. In the first case, Movant's claim was allowed in full as a 910-claim. Because of the repeat filing the same day as the dismissal, Debtors are proposing a severe value cramdown of Movant's claim.

4.

Debtors' proposed Chapter 13 Plan provides for payment to the Chapter 13 Trustee of \$1,250.00 per month. Of the available funds, Debtors' attorney has proposed receipt of \$1,067.00 per month (approximately 92% of available funds), leaving very little to Movant on its claim. The plan proposes to Movant just \$26.00 per month in preconfirmation payments, then \$26.00 per month postconfirmation, stepping to \$160.00 per month not until September 2018, to Movant. Furthermore, the plan proposes an interest rate of 4.25% which is *just* the *prime* rate with no risk factor.

5.

The proposed plan values the Collateral at only \$7,400.00. The NADA retail value of the Collateral is \$10,200.00. The plan should not be confirmed without proposing a value to Movant of at least \$10,200.00.

6.

The proposed plan is not *Till*-compliant. There is no risk factor proposed despite the fact that Debtors are repeat filers and they are proposing to maintain three vehicles with concomitant insurance. The plan should not be confirmed without an interest rate of at least 7.25% on Movant's allowed secured claim.

7.

Based on the depreciation in value of the Collateral from December 2016 (NADA \$11,950.00) to December 2017 (NADA \$10,200.00), the monthly depreciation is at least \$145.84 per month. The plan should not be confirmed unless it provides at least \$145.84 per month in preconfirmation and postconfirmation payments to Movant on its allowed secured claim.

8.

Any further increase in plan payments does not appear feasible. This case is not feasible in contravention of 11 U.S.C. §1325(a)(6).

9.

There is a nonfiling Codebtor on the loan obligation and title to the Collateral. Codebtor resides in Fayetteville, North Carolina per Debtors' schedules. The Collateral is not necessary to a reorganization in prospect. It does not appear that Debtors wish to pay Movant's claim in full to protect the nonfiling Codebtor. The contractual interest rate is 15.93%. The claim should be paid in full with contractual interest, or the Collateral should be surrendered as a part of confirming the plan. Otherwise, this plan has been filed in bad faith in violation of 11 U.S.C. 1325(a)(3).

WHEREFORE, the Movant prays that its Objection to Confirmation of Chapter 13 Plan be inquired into and sustained and that it has such other and further relief as this Court deems just and proper.

This December 29, 2017.

The Law Office of
LEFKOFF, RUBIN, GLEASON & RUSSO, P.C.
Attorneys for Movant

By: /s/Craig B. Lefkoff
Craig B. Lefkoff
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	:	
Respondents.	:	

CERTIFICATE OF SERVICE

The undersigned, Craig B. Lefkoff, hereby certifies that I am, and at all times hereinafter mentioned, was more than 18 years of age, and that I served the OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN on the following parties 1) electronically, if allowed by and pursuant to the requirements of local rule, or 2) by depositing same in the United States Mail in properly addressed envelope(s) with adequate postage to all others, as follows:

Chester Paul Ramagos
Dana Latrice Ramagos
1413 Preston Park Dr
Duluth, GA 30096

Michael Andrew Graves
The Semrad Law Firm, LLC
303 Perimeter Center N Suite 201
Atlanta, GA 30346

Melissa J. Davey
Chapter 13 Trustee
260 Peachtree Street, NW
Suite 200
Atlanta, GA 30303

This December 29, 2017.

The Law Office of
LEFKOFF, RUBIN, GLEASON & RUSSO, P.C.
Attorneys for Movant

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